



United States
Department of
Agriculture

Food and
Nutrition
Service

Mountain
Plains
Region

1244 Speer Boulevard
Denver, CO 80204-3585

Reply to
Attn. of:

CACFP - 605

MAR 07 2000

Subject:

Family Day Care Home Sponsoring Organizations (FDCHSOs) -
Compensation to Employees

To:

STATE AGENCY DIRECTORS - Colorado DPHE, Iowa ED, Kansas ED,
(Child Nutrition Programs) Missouri DH, Montana DPHSS,
Nebraska ED, North Dakota,
South Dakota, Utah and Wyoming ED

This memorandum addresses questions regarding the compensation of FDCHSO employees. The changes made by Public Law 104-193 (Welfare Reform Act) regarding how FDCHSOs may compensate their employees was addressed in memorandum CACFP-500, dated January 29, 1997. This stated that the Law prohibited FDCHSOs from making payments based on the number of homes recruited to any individual, provider, employee, or contractor. The prohibition extended to incentive payments and to regular compensation. Compensation could take the form of salaries, hourly wages, or piece work (i.e. payments for a specific work function), and non-cash compensation that is charged as a cost to the Child and Adult Care Food Program (CACFP) (i.e. offering additional paid vacations based on the number of homes recruited). FDCHSOs could continue to use the number of homes recruited as an evaluation factor when determining whether an employee is performing as expected. However, FDCHSOs would have to develop a new basis for providing compensation. Inherent in the recruitment of new homes is an increase in participation. Growth is encouraged; however, in the development of compensation systems FDCHSOs cannot substitute increased participation, as measured by meals, children, or providers, as a basis for either regular compensation or incentive payments.

Recently a situation was brought to our attention by a State Agency (SA) regarding a system being used by a FDCHSO. Its pay plan stated "...consultants will be paid on a salaried basis. Each rate of payment will be based upon a six month period average for the number of claiming providers. Each month consultants will receive a report of the number of regular claims. Numbers are evaluated two times a per year; May and November. Adjustments effective April 1st reflect the average number of claiming providers for the months of September through February. Adjustments effective October 1st reflect the average number of claiming providers for months of March through August."

The SA questioned this plan and felt that it was in violation of CACFP-500.

We discussed this situation with our Headquarters who determined the above situation was within the Law. FDCHSOs are allowed to pay their employees on the basis of their "caseload" (i.e. the number of FDCHs the employee monitors, trains, etc.). A FDCHSO is not prohibited from paying the employee with 100 FDCHs twice the amount as the employee with 50 FDCHs. Also, requiring the employee to perform recruitment functions is perfectly legal. This is considering that the Law still provides financial incentives (expansion funding and permission to use sponsor administrative funds to defray license related expenses of low-income providers). Within this context, a sponsor could not accomplish expansion into low-income or rural areas without asking their employees to perform recruitment duties.

What **IS** prohibited is the payment of a special rate to employees, providers, contractors, etc. for each FDCH recruited, or the rewarding of a 'prize' or additional paid vacation time for the most FDCHs recruited. Thus payment specifically tied to recruitment is prohibited; payment linked to the employee's workload and duties (including recruitment related activities) is **NOT** prohibited.

If you have any questions, please do not hesitate to contact our office at (303) 844-0359.



STELLA NASH
Acting Regional Director
Child Nutrition Programs